

Amendments to the Drawings:

The attached drawing sheet includes changes to Figure 5. Figure 5 has been amended change "f2" to "fn" in the description of step ST16, which is consistent with the specification, for example, at page 12, line 28. This sheet, which includes Figure 5, replaces the original sheet including Figure 5.

Attachment: Replacement Sheet

REMARKS

The Official Action mailed July 1, 2009, has been received and its contents carefully noted. This response is filed within three months of the mailing date of the Official Action and therefore is believed to be timely without extension of time. Accordingly, the Applicant respectfully submits that this response is being timely filed.

The Applicant notes with appreciation the consideration of the Information Disclosure Statements filed on June 7, 2006; September 21, 2006; and July 31, 2008.

Independent claim 1 is pending in the present application. Claim 1 has been amended to better recite the features of the present invention. For the reasons set forth in detail below, all claims are believed to be in condition for allowance. Favorable reconsideration is requested.

Paragraph 2 of the Official Action rejects claim 1 as anticipated by U.S. Patent No. 5,239,678 to Grube. The Applicant respectfully submits that an anticipation rejection cannot be maintained against the independent claims of the present application, as amended.

As stated in MPEP § 2131, to establish an anticipation rejection, each and every element as set forth in the claim must be described either expressly or inherently in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Independent claim 1 has been amended to recite that when the original control channel is used as a telephone communication channel, inserting information indicating a usage state of the telephone communication channel being used as the new control channel and a usage state of neighboring channels in an overlapped manner into information transmitted via the downlink communication of the original control channel so as to notify a wireless unit currently making a telephone call using the original control channel of these usage states, to perform a control channel usage state notifying processing. For the reasons provided below, the Applicant respectfully submits that

Grube does not teach the above-referenced features of the present invention, either explicitly or inherently.

Grube appears to disclose a control method of performing a telephone communication channel making processing step and a control channel shifting processing step, which may be somewhat similar to that of the present invention. However, Grube does not disclose, either explicitly or inherently, a control channel usage state notifying processing step, as required in the present invention. The control channel usage state notifying processing step of the present invention is unique in that when the original control channel is used as a telephone communication channel, information indicating a usage state of the telephone communication channel being used as the new control channel and a usage state of neighboring channels is inserted in an overlapped manner into information transmitted via the downlink communication of the original control channel so as to notify a wireless unit currently making a telephone call using the original control channel of these usage states, to perform a control channel of these usage states.

In contrast, the method described in Grube does not perform a processing step of notifying information indicating a usage state of the telephone communication channel being used as the new control channel and a usage state of neighboring channels via the downlink communication of the control channel to a wireless unit currently making a telephone call using the original control channel.

In short, in the present invention's method, information indicating a usage state of a newly set control channel is transmitted via the original control channel (not the newly set control channel) to a wireless unit currently making a telephone call using the original control channel; whereas, Grube's method does not perform such a transmitting process. Indeed, Grube teaches inbound signaling words (ISW), outbound signaling words (OSW) and generating "Send ISW's' OSW" on a re-assigned control channel. Even if Grube's "Send ISW's' OSW" corresponds to a signal of "information indicating a

usage state of a new control channel" as claimed in the present invention, this will not result in teaching the technique of the present invention.

Specifically, the Official Action asserts that Grube's "'Send ISW's' OSW" corresponds to the "information indicating a usage state of the control channel" of the present claims (page 3, Paper No. 20090623; citing Grube at column 4, lines 1-5, column 10, lines 16-18, and claims 3-5). The Applicant respectfully disagrees and traverses the assertions in the Official Action. In Grube, it is a newly assigned control channel that generates the "'Send ISW's' OSW"; whereas, in the present invention, it is an original control channel (not a new control channel) that transmits the "information indicating a usage state of a new control channel."

As stated above, Grube is distinguished from the present invention in that Grube generates the "'Send ISW's' OSW" on a newly assigned control channel; whereas, the present invention transmits the "information indicating a usage state of a new control channel" on an original control channel. Thus, the operation of the present invention's communication system (in which a usage state of a new control channel is transmitted via an original control channel) is essentially different from the operation in Grube's system (in which a signal similar to that of the present invention is generated on a newly assigned control signal).

Therefore, the Applicant respectfully submits that Grube does not teach the above-referenced features of amended independent claim 1, either explicitly or inherently.

Since Grube does not teach all the elements of the independent claims, either explicitly or inherently, an anticipation rejection cannot be maintained. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 102 are in order and respectfully requested.

At this opportunity, the Applicant has amended the specification to correct minor informalities, to make the disclosures internally consistent and to better describe the features of the present invention. No new matter has been entered.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized to charge fees under 37 C.F.R. §§ 1.16, 1.17, 1.20(a), 1.20(b), 1.20(c), and 1.20(d) (except the Issue Fee) which may be required now or hereafter, or credit any overpayment to Deposit Account No. 50-2280.

Respectfully submitted,



Eric J. Robinson
Reg. No. 38,285

Robinson Intellectual Property Law Office, P.C.
PMB 955
21010 Southbank Street
Potomac Falls, Virginia 20165
(571) 434-6789